

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

O R D E R

S.B. CIVIL WRIT PETITION NO.7819/2007.

M/s.Frazil Frozen Foods Pvt.Ltd.

Vs.

Member-Secretary, Raj.State Pollution Control
Board

Date of Order:- 13/11/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri S.K. Shukla for the petitioner.

Shri Akhil Simlote for the respondents.

The petitioner has challenged the order dated 7/9/2007 whereby he was asked to comply with the certain requirement of prevention of pollution of environment.

Learned counsel for the petitioner argued that consent to operate was cancelled without opportunity of hearing to the petitioner inasmuch as, the impugned-order dated 7/9/2007 was issued directing the petitioner industry to close it down forthwith discontinued supply of electricity and water to the industry. It was argued that the aforesaid order was passed without any opportunity of hearing to the petitioner and in utter violation of the principles of natural justice.

Learned counsel for the respondents has opposed the writ petition and argued that petitioner was given show cause notice dated 4/8/2007 inasmuch as, he was given opportunity of hearing under the provisions of the Act and in case petitioner had any objection, he was required to submit his objection within 15 days, failing which, it was stated that direction will be confirmed without any further notice. It was argued that pursuant to the interim-order of this Court dated 1/10/2007, the petitioner was given liberty to remove six deficiencies pointed out by the aforesaid order but, only two were found to have been removed whereas out of the remaining only, one was later removed and in this manner the interim-order of this Court still remains not complied with in substance. It was therefore prayed that the interim-order passed by this court directing water and electricity to the petitioner be not discontinued be vacated and the writ petition be dismissed as being premature.

Having heard learned counsel for the parties, I find that though the order dated 7/9/2007 does mention about the earlier show

cause issued to the petitioner on 4/8/2007 nevertheless, this order also provide the petitioner an opportunity of hearing in terms of Section 33A of Air (Prevention of Control of Pollution) Act. Though, the fact is that by the self same order, directions were very much issued while asking the petitioner to close down the industry forthwith. Learned counsel representing the respondents has therefore argued that the order in substance was again a show cause notice and final order was yet to be passed therefore, writ petition may be dismissed as being premature.

This is opposed to by the learned counsel for the petitioner. He submits that substantial injuries have been suffered by the petitioner even at the stage of passing of the order impugned.

In the circumstances of the case, I find from the earlier order passed on 1/10/2007 that the learned counsel for the petitioner expressed preparedness to remove the deficiencies pointed in para 4 of the order dated 7/9/2007.

Therefore, in the interest of justice, the interim-order dated 10/10/2007 is extended

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by 23/11/2007 with the direction to the petitioner to submit the compliance report before the Board along with his reply to the show cause notice dated 7/9/2007 upto 23/11/2007. The Board would then pass final order after hearing the petitioner giving reasons in support of the view. The interim-order passed shall stand extended only till the final order is passed by the Board. In case, the petitioner fails to submit the reply/compliance report by 23/11/2007, the Board would be free to proceed in the matter in accordance with law.

The writ petition is disposed of accordingly.

(MOHAMMAD RAFIQ), J.

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